BEFORE THE CONSERVATOR OF FORESTS

[CONSERVATION],

APPELLATE AUTHORITY UNDER THE GOA, DAMAN AND DIU PRESERVATION OF TREES ACT, 1984

Appeal No. /2023

Orlando Braganza and Anr. **….Appellants**

v.

The Tree Officer,

Dy. Conservator of Forests [North] & Anr. **……..Respondents**

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PLACE: Panaji, Goa [*Adv. for Appellants*]

DATE: 03.11.2023 Adv. Om Anthony D'costa

BEFORE THE CONSERVATOR OF FORESTS

[CONSERVATION],

APPELLATE AUTHORITY UNDER THE GOA, DAMAN AND DIU PRESERVATION OF TREES ACT, 1984

1. **Mr. Orlando Julian Dominic Braganza,**
   House No 123, Bairo Alto,
   Assagao. Bardez, Goa – 403507.

2. **Mr. Avertino Rosario Miranda,**
   H. No: 594, Shambhavi Apts,
   Dr. Dada Vaidya Road, Panaji, Goa – 403001.

….Appellants

v/s

1. **The Tree Officer**,
   Dy. Conservator of Forests,
   North Goa Division, Ponda, Goa - 403401.

2. **Mrs. Fabiola Grace Mendes E Rodrigues**,
   Director of M/s Bennet and Bernard Custom Homes Pvt. Ltd.,
   1st Floor, Mathias House, Campal, Panaji, Goa – 403001.

……..Respondents

[All addresses are registered addresses of Parties]

APPEAL UNDER SECTION 15(1) OF THE GOA, DAMAN AND DIU PRESERVATION OF TREES ACT, 1984, AGAINST ORDER DT. 06.10.2023 BEARING REF. NO. 01/DCFN/PJM-148/2023-24/647/1810

MAY IT PLEASE YOUR HONOUR

The Appellants most respectfully state and submit THAT:

1. This Appeal is filed against an order dt. 06.10.2023 issued by the Tree Officer North Goa [*Dy. Cons. of Forests, North Goa Division, Ponda*] under Section 9 of the Goa, Daman and Diu Preservation of Trees Act, 1984, (hereinafter 'Preservation of Trees Act') permitting a private party [*Resp. No. 2 herein*] to fell 54 trees on the property known as "Alta" bearing Sy. No. 128/8, Assagao village, Bardez Taluka [hereinafter*, "suit property"*].

2. The order dt. 06.10.2023 bearing ref. no. 01/DCFN/PJM-148/2023-24/647/1810 is enclosed herewith as **Annexure A** [*hereinafter*, "*impugned order"*], and is primarily challenged in this Appeal on two grounds, namely:

    I. Suit property is provisionally identified as private forest, and its forestry status is sub judice before the Hon'ble N.G.T;

    II. Impugned order is bereft of reasoning and does not satisfy the requirements of S. 9 of the Preservation of Trees Act.

PARTICULARS OF PARTIES

3. The Appellants herein are members of a Non Governmental Organization, the 'Goa Green Brigade', which has been pursuing environmental causes in Goa including the destruction of forest areas across the State. The Appellants have on past occasions made complaints to the relevant authorities including the Resp.

No. 1 regarding attempts made from time to time to cut the trees on the property in question. The Respondent No. 1 is the Tree Officer [North], which has issued the impugned order. The Respondent No. 2 is the private party in whose favour the impugned order has been issued.

FACTS CONSTITUTING THE CAUSE

4. The property in question, i.e. Sy. No. 128/8, Assagao village, Bardez Taluka, has been provisionally identified as a Private Forest by the V.T. Thomas State Level Expert Committee constituted by the Government of Goa, in terms of its Report submitted in October 2018. The entire Sy. No. 128 of Assagao village was visited on multiple occasions by the Expert Committee, which in its report has provisionally identified that the suit property satisfies the three criteria for a 'Private Forest'. The relevant extract of the Thomas Committee Report is enclosed as **Annexure 1.**

5. Subsequently, the State Govt. of Goa constituted a Review Committee in the year 2020 [*Notification dt. 21.01.2020*] to review the areas provisionally identified as Private Forest by the North and South Goa Expert Level Committees, headed by Shri V.T. Thomas and Shri F.X. Araujo respectively. The notification constituting the Review Committee dt. 21.01.2020 is enclosed as **Annexure 2.** The work of this Review Committee is ongoing, and till date, 6 Interim Reports of the Review Committee have been prepared.

6. The Review Committee in its 2nd Interim Report [*June* 2021] reviewed the inclusion of the suit property as a Provisional Private Forest, and has come to the conclusion that the said Sy. No. does not qualify the criteria of Private Forest.

7. The Reports of the Review Committee, including the 2nd Interim Report, were challenged before the Hon'ble National Green Tribunal [*Western Zone, Pune*] in M.A. 3/2023 in O.A. 478/2018, *The Goa Foundation vs. The State of Goa and Ors*.

8. The Hon'ble National Green Tribunal in its judgement in M.A. 03/2023 [WZ] dt. 12.09.2023 has made it clear that any such Interim Reports of the Review Committee are not final and conclusive Reports, as the process of finalising various areas as private forest is still in progress. The N.G.T has given the State of Goa a time period of 1 year to complete the exercise of Review of private forests Provisionally identified and submit a Final Report. The relevant extract of the judgement of the Hon'ble N.G.T. is enclosed as **Annexure 3,** and the Appellants crave leave to produce the entire judgement in the course of these Appeal proceedings.

9. It is therefore submitted that until such time that the Final Report of the Review Committee is submitted to the Hon'ble N.G.T. and this report is accepted and approved by the N.G.T., the forestry status of the suit property provisionally identified as Private Forest cannot be altered or destroyed in any manner. On this ground alone, the impugned order permitting the felling of 54 trees ought to be quashed and set aside.

10. The Forest Department was a party Respondent to the M.A. 03/2023 filed in the Hon'ble N.G.T, and its officers are aware of the said judgment and therefore ought not to have accorded permission for tree felling on the suit property, when its forestry status is writ large before the Hon'ble N.G.T.

11. In addition to the above, the impugned order is also challenged herein on the ground that it permits the private party [*Resp. No. 2*] to fell 54 trees, without assigning or stating any reasons why such permission is given. It is a well settled principle of law that any decision making authority is bound to give reasons for taking a

decision, one way or the other. This is more so required when the issue of protection of the environment is involved.

12. The clearly defined objective of the Goa, Daman and Diu Preservation of Trees Act, 1984 is "*to provide for the preservation of trees in the State of Goa*". The purpose of the Act is certainly not to grant licenses to fell trees on the mere asking by a private party, and S. 9 of the Act envisages due application of mind and a reasoned order either permitting or refusing an application to fell trees made thereunder.

13. The Hon'ble High Court of Bombay at Goa, in the case of *Federation of Rainbow Warriors vs. Deputy Conservator of Forests* [**2018 (3) M.h.L.J. 424],** has stated that:

> "The conjoint reading of the provisions of the Act indicates that the Tree Officer has to take into consideration various aspects of the matter as to whether the trees are required to be cut in the first place, numbers and kind of trees to be cut and the justification for cutting the required number of trees. He is also required to pass a reasoned order…."

In the above matter, the order passed by the Appellate Authority under the Act was quashed and remanded back for reconsideration, *inter alia* as it was not a reasoned and considered order passed by the Appellate Authority.

14. A bare perusal of the impugned order makes it clear that it contains no reasons at all for granting the permission to fell trees. Besides not taking any ecological considerations into impact, or assessing whether the felling of trees is necessary, the order also makes no reference to the forestry status of the suit property, be it the pending N.G.T. proceedings, or its nature of provisional private forest in terms of the Thomas Committee Report. Therefore, the impugned order is liable to be quashed and set aside on this count as well.

GROUNDS

15. Being aggrieved by the said impugned order dt. 16.10.2023 passed by the Tree Officer, North Goa Division, the Appellant prefers this Appeal on the following grounds, which are urged without prejudice to one another:

A. The suit property is provisionally identified as private forest by the V.T. Thomas Expert Committee. The impugned order permitting the felling of trees and thereby altering the forestry status of the suit property is contrary to the directions of the Hon'ble N.G.T. in M.A. 03/2023, where the forestry status of the suit property is sub-judice.

B. No order permitting the felling of trees on the suit property can be passed until the forestry status of the property is conclusively determined by the Hon'ble N.G.T, after the Final Report of the Review Committee is submitted by the State of Goa and accepted by the N.G.T.

C. The basic requirement of Section 9 of the Goa, Daman and Diu Preservation of Trees Act, 1984 is that the Tree Officer passes a reasoned order, taking into account relevant considerations and keeping in mind the object of the Act, i.e. preservation of trees in the State of Goa.

D. The impugned order has been passed mechanically by the Tree Officer without applications of mind, as it is devoid of any reasons including the need to fell trees; provisional forestry status of the property, as well as pending court proceedings.

E. Such other and further grounds as may be urged in the course of hearing of this Appeal.

INTERIM RELIEF SOUGHT

16. An application seeking an urgent ad-interim, ex parte stay of the impugned Order is made along with this Appeal, which this Authority ought to consider and grant at the earliest, as the 30 day waiting period to cut the trees in terms of the impugned order ends on 5th November 2023, and the instant Appeal would be rendered infructuous if the private Respondent goes ahead and cuts the 54 trees in question.

LIMITATION

17. The impugned order. dt. 06.10.2023 was received by the Appellants on 30.10.2023, and this Appeal, filed on 03.11.2023, has been filed within the 60 day time period stipulated by S. 15(1) of the Act. There is therefore no delay in the filing of this Appeal.

PRAYERS

18. For all the above reasons, it is therefore prayed that:

a) The record and proceedings of the Resp. No. 1 tree officer pertaining to the impugned order be called for;

b) The present Appeal be allowed; and the impugned order dt. 06.10.2023 bearing Ref. No. 01/DCFN /PJM-148/ 2023-24/647/1810 be quashed and set aside;

INTERIM RELIEF

c) Pending the hearing and final determination of this Appeal, for an order restraining the Resp. No. 2 and its agents/contractors, as the case may be, from felling trees on the property known as “Alta” bearing Sy. No. 128/8, Assagao village, Bardez Taluka, in terms of the impugned order dt. 06.10.2023 bearing Ref. No. 01/DCFN /PJM-148/ 2023-24/647/1810;

d) For ad-interim, ex-parte relief in terms of Prayer clause ‘c’ above;

e) Any other order this Hon’ble Authority deems fit.

PLACE: Panjim, Goa
DATE: 3rd November 2023

Appellant No. 1

Appellant No. 2

BEFORE THE CONSERVATOR OF FORESTS
[CONSERVATION],

APPELLATE AUTHORITY UNDER THE GOA, DAMAN AND DIU PRESERVATION OF TREES ACT, 1984

Appeal No. /2023

Orlando Braganza and Anr. **….Appellants**

v.

The Tree Officer,
Dy. Conservator of Forests [North] & Anr. **……..Respondents**

AFFIDAVIT IN SUPPORT OF THE APPEAL

I, Orlando Julian Dominic Braganza, the Appellant No. 1 above named, do hereby solemnly affirm and state as under:

1. I state that this Appeal has been filed by the Appellants against the impugned order dt. 06.10.2023, issued by the Tree Officer, Dy. Conservator of Forests, North Goa.

2. I state that the contents of paragraphs 1, 2(p), 3, 4(p), 5(p), 6(p), 7(p), 8(p), 10(p), 11(p), 12(p), 13(p), 15(p), 16(p), and 17(p) are true and correct to my own knowledge and official documents/records, and that the contents of paragraphs 2(p), 4(p), 5(p), 6(p), 7(p), 8(p), 9, 11(p), 12(p), 13(p), 14, 15(p), 16(p), 17(p), and 18 are my submissions based on legal advice which I believe to be true and correct. No part of it is false, and nothing

material has been concealed therefrom. I further state that the annexures enclosed are true and correct copies of their respective originals.

Solemnly affirmed at Panaji, Goa,
This the 3rd day of November 2023

Deponent

GOVERNMENT OF GOA

OFFICE OF THE DY. CONSERVATOR OF FORESTS

NORTH GOA DIVISION, PONDA- GOA. 403401

Phone No. 0832-2312095, 2312856 e-mail:dcfnorth-forest.goa@nic. in

No. 01/DCFN/PJM-148/2023-24/ 6477/1810 Dated:- 06/10/2023

15 Ashvina, SAKA 1945

Sub:- Permission to fell the trees

With reference to his/her application dated 14/09/2023 grant of permission to fell the trees to **Mrs Fabiola Grace Mendes E Rodrigues, Director of M/s Bennet And Beneard Custom Homes Pvt. Ltd., 1st Floor, Mathias House, Campal Panaji Goa** hereby informed that he/she is granted permission to fell the trees (as indicated below) from the private property known as **"Alta" in Sy. No. 128/8 situated at Assagao village in Bardez taluka**, subject to the terms and conditions laid down.

Sr. No	Tree No.	Details of trees Species of trees	Girth (Mts.)
1	1	Matti	0.80 mt.
2	2	Hassan	1.10 mt.
3	3	Matti	0.90 mt.
4	4	Hassan	0.92 mt.
5	5	Teak	0.90 mt.
6	6	Kindal	0.82 mt.
7	7	Bhirand	1.00 mt.
8	8	Hassan	1.00 mt.
9	9	Matti	0.88 mt.
10	10	Matti	1.02 mt.
11	11	Chanado	1.03 mt.
12	12	Jambhal	1.10 mt.
13	13	Kindal	0.65 mt.
14	14	Kindal	1.10 mt.
15	15	Mango	1.00 mt.
16	16	Katekavach	1.00 mt.
17	17	Bhirand	0.73 mt.
18	18	Hassan	1.10 mt.
19	19	Daban	0.82 mt.
20	20	Bhirand	0.80 mt.
21	21	Hassan	1.15 mt.
22	22	Hassan	1.20 mt.
23	23	Daban	0.70 mt.
24	24	Hassar	0.80 mt.
25	25	Hassan	1.10 mt.
26	26	Daban	0.96 mt.
27	27	Hassan	0.89 mt.
28	28	Hassan	0.79 mt.
29	29	Jambhal	0.86 mt.
30	30	Arjun	0.80 mt.
31	31	Hassan	1.20 mt.
32	32	Cashew	0.79 mt.
33	33	Mango	0.70 mt.
34	34	Chanado	0.82 mt.
35	35	Cashew	0.70 mt.
36	36	Hassar	1.18 mt.
37	37	Charcoal	0.38 mt.
38	38	Charcoal	0.45 mt.
39	39	Daban	0.33 mt.
40	40	Bailado	0.80 mt.
41	41	Hassan	1.00 mt.

1. Paid felling fee of **Rs. 4900/- vide receipt No. 24/823 dated 06/10/2023.**
2. Paid Security Deposit of **Rs. 29400/- Vide FDR. No. 060988 dated 06/10/2023**

CERTIFIED TRUE COPY

Secretary
Village Panchayat Assagao
Bardez - Goa

42	42	Charcaol	0.35 mt.	
43	43	Jambal	0.95 mt.	
44	44A	Chanado	0.80 mt.	
	44B	Chanado	0.78 mt.	
	44C	Chanado	0.40 mt.	
45	45	Hassan	1.44 mt.	
46	46	Chanado	0.32 mt.	
47	47A	Chanado	0.80 mt.	
	47B	Chanado	0.42 mt.	
	47C	Chanado	0.40 mt.	
48	48A	Mango	1.20 mt.	
	48B	Mango	1.15 mt.	
	48C	Mango	1.02 mt.	

Licencee had to inform the R.F.O. during the currency of licence to inspect the felled material.

TERMS AND CONDITIONS

1. **The Range Forest Officer shall mark the trees before cutting.**
2. Permission to fell the trees is granted at his/her own risk and without prejudice to the claims of the other person/s who may be having any right over the land of trees.
3. **The actual tree felling shall be carried out after 30 days from the date of issue of this tree felling permission. The tree felling may be completed within 45 days after completing 30 days as mentioned above. Incase trees felling not completed within 45 days' application for extension of time limit for felling of trees, shall be forwarded to this office through concern Range Forest Officer.**
4. Material produced from felled trees shall not be removed or disposed without permission of the Tree Officer.
5. He/She shall replant trees as per details given below during the ensuing/next planting season in the property from where the trees will be felled.

Sr. No.	Species	No. of trees applied	No. of trees permitted	No. of trees to be replanted
1.	Misc- Species	49 trees	49	147 trees

6. **To compensate the loss User Agency/Applicant is hereby advised to plant tall saplings with good endurance with minimum 8-10 feet height and 10cm diameter at 1 mtr. Height from ground level.**
7. **The event of failure on the part of permit holder to replant the trees as indicated above, the Trees Office shall take necessary action as per the Goa Preservation of Tree Act 1984.**
8. **The claim regarding refund of Security Deposit shall be made within the three years from the date of this permission on successful replantation of stipulated Nos. of saplings otherwise, Security Deposit shall be forfeited in "Tree Protection Fund-Goa".**

CERTIFIED TRUE COPY

Secretary
Village Panchayat Assagao,
Bardez-Goa

OFFICE OF THE DY. CONSERVATOR OF FORESTS

Dy. Conservator of Forests,
North Goa Division,
Ponda-Goa.

To,
Mrs Fabiola Grace Mendes E.Rodrigues,
Director of M/s Bennet And Bellcant Customs Service Pvt. Ltd.,
1st Floor, Mathias House, Campal Panaji Goa.

Copy submitted to:-

1. The Conservator of Forests, (Conservation) Panaji-Goa for information.
2. Copy to the Chairman/Secretary, Biodiversity Management Committee, Village Panchayat, Assagao, Bardez Goa to follow up replantation of trees.
3. Copy to the Accounts Section of this office along with **Security Deposit Paid Rs. 29400/- Vide FDR. No. 060988 dated 06/10/2023 of VPK Urban Co-operative Credit Society Ltd., Ponda Branch.**
4. Copy to the Range Forest Officer, Panaji-Goa.
5. Copy to the Range Forest Officer, Mobile Squad, Ponda.

"Swachh Bharat, NitalGoem
Towards Greener & Cleaner Goa".

Inward No. 1578
Date : 11/10/2023
V.P Assagao

[Extract]

FINAL REPORT

OF

STATE LEVEL EXPERT

COMMITTEE

(SH.V.T. THOMAS :CHAIRMAN)

FOR

PRIVATE FORESTS

OF

NORTH GOA

GOVERNMENT OF GOA

EXHIBIT I

List of provisionally identified Private Forests by V T Thomas SLEC, North Goa Division.

Sr. No.	Name of the Taluka	Name of the Village	Provisionally identified Sy. Nos	Approximate Area	Excluded Sy. Nos.	Additional inclusion	Remarks
1	TISWADI	Murda	26, 34, 39,40, 41, 42, 43, 44	> 5.0Ha	26, 34, 40, 41, 39, 42, 43, 44 .	NIL	Surveyed / not fitting into Private Forest criteria
		Cujira	38, 39, 40, 41, 42 & 44.	> 5.0Ha	38, 39, 40, 41, 42 & 44	NIL	Surveyed / not fitting into Private Forest criteria
		Gancim	6, 7, 8, 13, 14, 15, 16, 17, 22, 33, 36, 37, 38	> 5.0Ha	7, 8, 13, 14, 15, 16, 17, 22, 33, 36, 37, 38.	NIL	Except Sy. No. 6(P), others are not fitting into criteria
		Talaulim	106 & 107.	> 5.0Ha		NIL	
		Gauli Maula	4, 31, 32, 34, 35, 36, 38, 39	> 5.0Ha	4, 31, 32, 35, 36, 38, 39	NIL	Except Sy. No. 34(P), others are not fitting into criteria
		Azzocim	5, 6, 8, 61 & 63	> 5.0Ha	5, 6, 8, 61 & 63	NIL	Surveyed / not fitting into Private Forest criteria
		Mandur	57,59 & 60	> 5.0Ha	57,59 & 60	NIL	Surveyed / not fitting into Private Forest criteria
		Chorao	461	> 5.0Ha	461	NIL	Surveyed / not fitting into Private Forest criteria
		Carambolim	263, 280, 281, 282, 283, 284, 285, 286, 287, 288, 290, 292, 294	> 5.0Ha	263, 280, 281, 282, 283, 284, 285, 286, 287, 288 290, 292, 294	NIL	Surveyed / not fitting into Private Forest criteria
		Curca	48& 49	> 5.0Ha	48& 49	NIL	Surveyed / not fitting into Private Forest criteria
2	Bardez	Salvador do Mundo	64(P), 65 (P), 66(P), 69(P), 73(P), 78(P), 85(P), 86(P), 116(P), 118(P), 119(P), 135(P), 137(P), 150(P), 151(P), 152(P), 153(P), 154(F), 155(P), 156(P), 158(P), 159(P), 160(P), 162(P), 163(P), 164(P), 227(P), 236(P), 237(P), 239(P), 241(P), 251(P), 252(P), 265(P), 266(P), 267(F), 268(P), 269(P), 270(P), 271(P), 272(P), 273(P), 281(P), 282(P), 291(P), 292(P), 295(P), 296(P), 297(P), 298(F), 299(P), 300(P), 301(P), 302(P), 305(P), 306(P), 307(F), 311(P), 312(P), 313(P), 315(P), 321(P), 322(P), 323(P), 324(P), 325(P), 326(F), 327(P), 331(P), 333(P), 337(P), 338(P), 339(P), 341(P), 343(P), 344(P), 345(P), 346(P), 347(F), 348(F), 349(P), 350(P), 351(P), 352(F), 353(P), 355(F), 356(P), 357(F), 358(F), 359(P), 365(P)	200 Ha	64(P), 65 (P), 69(P), 73(P), 78(P), 85(P), 86(P), 116(P), 118(P), 119(P), 137(P), 156(P), 159(P), 160(P), 162(P), 163(P), 164(P), 227(P), 236(P), 241(P), 251(P), 252(P), 265(P), 266(P), 270(P), 271(P), 282(P), 291(P), 292(P), 295(P), 297(P), 305(P), 312(P), 315(P), 321(P), 325(P), 326(F), 327(P), 331(P), 333(P), 341(P), 343(P) 344(P), 345(P) 349(P) 350(P), 358(F), 359(P), 365(P)	107 (P), 108(P), 131, 133 247 262, 340, 354	

Sr. No.	Name of the Taluka	Name of the Village	Provisionally identified Sy. Nos	Approximate Area	Excluded Sy Nos.	Additional inclusion	Remarks
		Soccorro	2, 3, 4, 176, 200, 200,201, 202, 203, 204, 208, 209, 210, 211, 213, 220, 221, 223,225, 249, 254 ,255, 260, 261,263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 290, 291, 289, 292, 293, 294, 295, 296, 297, 298, 299, 302, 341, 342, 343, 344, 345, 346, 347, 348, 351, 352, 354, 356, 357, 358, 359, 361, 362, 402, 403, 346, 345, 407/7, 407/8, 407/9,	100Ha.	2, 3, 4, 176, 204/4 204/1, 208, 221, 223, 265,	341, 342, 343, 344	Yet to Survey
		Penha de Franca	11, 13, 14,16, 29, 33,34, 35, 38, 39, 40, 45, 46, 50, 52, 75, 76, 103, 104, 108, 109, 110, 114,115, 116, 117, 118, 119,133, 134, 135, 139, 140,146, 147, 149, 150, 151, 181, 182, 184, 186, 187, 188, 189, 190, 191 & 192.	100Ha.	119/1, 133/1 184/3, 181/1, 181/2, 184/4	Yet to Survey	Yet to Survey
		Pomburpa	9, 11, 13, 16, 29, 50, 54, 72, 73, 83 & 87.	20Ha.	Yet to Survey	Yet to Survey	Yet to Survey
		Siolim	150, 189, 191,192, 198, 199, 200, 205, 206, 207, 210, 222, 223, 224, 225, 226, 227, 228, 229, 230, 245, 248, 256, 261, 262, 264, 267, 270, 271, 295, 296, 297, 298, 299, 306, 307, 308 & 309.	50Ha.	306/7 & 309/2	Yet to Survey	Yet to Survey
		Olaviem	5, 17, 20, 21, 26, 33, 34, 41, 42, 43, 47, 48, 50, 52 & 125	10 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Pilerne	17, 78, 83 & 84.	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Reis Magos	41 & 42	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Ucassaim	48, 79, 80 & 87	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Nachinola	71 & 75	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Marna	75, 81, 82 & 86	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Calangute	26, 27, 28, 29, 30, 31, 32, 33, 42, 43, 44, 45, 46, 47, 88, 250, 251, 252, 254, 255, 256, 257,258, 259, 260, 261, 262, 263, 264, 267, 268, 269, 270, .	10 Ha	32/7 & 88/3	Yet to Survey	Yet to Survey
		Camorlim	06, 07, 08, 152, 156, 158, 159, 160, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172,	10 Ha	7/4, 172/1(P)	Yet to Survey	Yet to Survey
		Oxel	31, 37, 46, 76, 77, 78, 79, 80	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Sangolda	94, 21, 22, 25, 94	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey
		Assagao	59, 61, 62, 63, 67, 68, 69, 74, 76, 101, 108, 128, 129, 130, 132, 133	10 Ha	128/14	Yet to Survey	Yet to Survey
		Parra	25, 29, 34, 35, 36, 214, 213, 212	5 Ha	Yet to Survey	Yet to Survey	Yet to Survey

Department of Forest

Notification

No. DCF(WP)/Pvt.For/16(THC)/2013(WZ)/19-20/26

A Committee comprising of following members is hereby constituted to review the private forests areas provisionally identified by the North (Thomas) and South (Araujo) Goa Forest Division Committees constituted vide notification No. 7-1-2009/FOR/439 dated 27-11-2012.

1) Conservator of Forests (Conservation) — Chairman.
2) Additional Collector, North Goa District — Member.
3) Additional Collector, South Goa District — Member.
4) Director of Settlement and Land Records — Member.
5) Director of Agriculture — Member.
6) Assistant Conservator of Forests, Headquarters, North Goa Division — Member.
7) Assistant Conservator of Forests, Headquarters, South Goa Division — Member.
8) Deputy Conservator of Forests (Working plan) — Member Secretary.

The Committee shall get the methodology approved by the Government within 15 days for reviewing the private forest areas provisionally identified by the North (Thomas) and South (Araujo) Goa Forest Division Committees.

The Committee shall submit its report by 10th March, 2020.

By order and in the name of the Governor of Goa.

Shaila G. Bhosle, Under Secretary (Forest).

Porvorim, 21st January, 2020.

Department of Labour

Notification

No. 28/2/2020-LAB/Part-I/30

[Extract]

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

MISC. APPLICATION NO.03 OF 2023 (WZ)
[Earlier O.A. No.63 OF 2022 (PB)]
IN
ORIGINAL APPLICATION NO.478 OF 2018

The Goa Foundation,
through its Secretary Dr. Claude Alvares,
Age : 73 years, Having Regd. Office
at Room No.7, Above Mapusa Clinic,
Mapusa, Goa – 403 507 .... **Applicant**

Versus

1. The State of Goa,
   Through its Chief Secretary,
   c/o Secretariat, Porvorim,
   Goa – 403 521

2. The Review Committee on Private Forests,
   Through its Chairman, the Chief Conservator
   Of Forests, Forest Department,
   Government of Goa,
   `Van Bhavan', Altinho, Panaji,
   Goa – 403 001

3. The Principal Chief Conservator of Forests,
   `Van Bhavan', Altinho, Panaji,
   Goa – 403 001

4. Confederation of Real Estate
   Developers' Association of India
   (CREDAI), Goa Chapter,
   Having office at 315, 3rd Floor,
   Gera Imperium-II, Patto Plaza,
   Patto, Panaji – 403 001,
   Represented by its Authorised
   Representative Mr. Nilesh Sinai Salkar,
   s/o Damodar Sinai Salkar,
   Age : 55 years, Married, Indian National,
   R/o H.No.4, Susheela F.L. Gomes Road,
   Vasco Da Gama, Mormugao - Goa

5. John Alfredo Nazareth,
   H No.154, Bairo Alto,
   Assagao, Bardez, Goa – 403 507

6. Antonio Agnelo Nazare,
   H. No.154, Bairo Alto,
   Assagao, Bardez, Goa – 403 507 ....**Respondents**

the directions of the Hon'ble Supreme Court. In paragraph 9 of this affidavit, it is stated that even the State Government has submitted in their affidavit that the methodology which was adopted by RC-I in respect of finalization of the private forest area earlier, the same has been adopted by RC-II as well. The methodology adopted by RC-II is an improvement over the methodology followed by RC-I, making it more technically sound and free from human biases. The property belonging to the answering respondents being Survey No.128/9 and 128/10 do not qualify to be forest as the record discloses that the property bearing Survey No.128/9 admeasuring 1550 sq.mtrs has been shown as Garden which is cultivable and Survey No.128/10 admeasuring 200 sq.mtrs is shown as cultivable land.

61. Heard the arguments of the learned counsel for the parties and perused the record.

62. Based on the arguments made by the respective learned counsel, following issues are being framed by us for determination of the dispute involved herein:

Issues :

(i) Whether the present Application is time barred ?

(ii) Whether RC-II exceeded its mandate by undertaking review of forest areas finalized by Thomas and Araujo Committees ?

(iii) Whether the methodology adopted by RC-II was appropriate ?

(iv) What should be the methodology for finalization of the private forest and what should be its outer time limit ?

Findings :

Issue No.(i) :

63. As per this issue, we have to decide as to whether the present application is time barred. In this regard, at the very outset, we would like to indicate that from the side of none of the respondents, this issue

has been vehemently pressed as no arguments were made in this regard. Even then, we deem it appropriate to give finding on this issue because the issue of limitation is a legal issue and that this Tribunal should take into consideration the facts involved and the law under which it may be found to be time barred.

64. The present application has been filed under the provisions of Section 14 of the National Green Tribunal Act, 2010, seeking quashing of the four interim reports submitted by respondent Nos.1 to 3 relating to identification/demarcation/determination of the private forest area in the North Goa district and South Goa district in the State of Goa. By the time this application was filed, only four interim reports had been filed and that the work was still in progress. Since filing of this application, two more interim reports have been filed by respondent Nos.1 to 3. Therefore, it is quite evident that respondent Nos.1 to 3 themselves are admitting this fact that these are not the final reports as process of declaring the area to be private forest is still in progress. It is only partially that some area has been found to be finally demarcated as forest area. In this background, we find that the applicant has reckoned the date of limitation from December, 2021 and January, 2022, which are said to be the months of preparation of the reports by the respondents, while the application has been filed on 06.04.2022. Six months' period is prescribed during which the application can be filed as per sub-section 3 of Section 14 of the NGT Act. The same would lapse, in the present case, in the month of June, 2022.

65. From the side of respondent Nos.1 to 3, it is submitted that since the first three reports were brought in public domain on 13.09.2021 as they were uploaded on its website and that the applicant being a person who was diligently pursuing the matter, would certainly be attributed the knowledge of the said date, the reckoning of the period of limitation of six

months should begin from that date under Section 14 sub-clause (3) of the NGT Act, which would lapse on 12.03.2022.

66. In rejoinder, it has been made clear by the applicant that the limitation should be computed from the date of uploading of the first three interim reports because these three reports are being called interim reports. Therefore, so long as the final reports are not submitted by the Forest Department and those do not get approved by this Tribunal, the applicant would be treated to be suffering and there would be continuous cause due to violation being made on various grounds in finalization of the private forest area. The reliance is also placed on the decision of this Tribunal (Principal Bench) in ***Forward Foundation Vs. State of Karnataka and Ors; 2015 ALL(1) NGT Reporter (2)(Delhi)81***, which lays down that the recurring cause of action is distinct and completed occurrence made of a fact or blend of composite facts giving rise to a fresh legal injury, fresh right to sue and triggering a fresh lease of limitation. In the case in hand, 4th interim report was uploaded on 28.02.2022 while this application was filed on 06.04.2022, which was within the prescribed period of limitation. We are completely in agreement with the arguments of the learned counsel for the applicant that the reports submitted to the Government are only interim reports as of now and the area of private forest is in process of being determined and therefore, this will give rise to the continuous cause of action to the applicant in case when the infirmity is pointed out in any of these reports. It is also evident from the facts of the case that the objections which have been raised by the learned counsel for the applicant with respect to the domain of RC-II having unauthorizedly touched upon those areas which had been finalized as private forest by the T&A Committees which was not their domain according to the Notification issued by the Government and that methodology adopted for determination of the

private forest by RC-II while reviewing the work done by T&A Committees is also assailed on various counts. Therefore, this kind of assailing the process will give rise to the continuous cause of action arising in favour of the applicant. Hence, we find that this application does not suffer from limitation and we hold that the application is filed well within the prescribed period of limitation and is not time barred. This issue is decided accordingly.

Issue No. (ii) :

67. As far as this issue is concerned, we have to decide as to whether RC-II has exceeded its mandate by undertaking review of the forest areas finalized by Thomas and Araujo Committees ? Before making final opinion on this issue, it would be appropriate to give in brief the past history in this matter in chronological order.

68. Pursuant to the order of the Hon'ble Supreme Court in ***T.N. Godavarman***, dated 12.12.1996, the Government of Goa, vide Notification dated 06.07.1997, constituted Sawant Committee to demarcate private forests in the State of Goa, which identified 47 sq.kms. private forest. Thereafter, the State Government set up Karapurkar Committee vide Notification dated 04.09.2000 to review the work of Sawant Committee, but pursuant to the order of the Hon'ble Supreme Court dated 04.05.2001 in Writ Petition No.181/2001, the said Committee was restrained from reviewing the work of Sawant Committee. Thereafter, Karpurkar Committee was restricted to identify new areas only. Both the above Committees, in total, identified 67.02 sq.kms. of private forest and submitted final report on 16.08.2002. But no demarcation of this private forest was done by these Committees. Thereafter, pursuant to the order of the Hon'ble High Court dated 02.07.2003 passed in a PIL, these Committees commenced the work of demarcating private forest and found that on 30.06.2008, the Forest

it is recorded that in pursuance of the National Green Tribunal order, the Government of Goa hereby notifies the part final report on Private Forest encompassing an area of 455.1081 Hectare which has been reviewed and finalized in all respects by the Review Committees till its 6 (Six) Part Final Reports, as Private Forest in the State of Goa.

89. Having stated the methodology adopted by the T&A Committees and the RC-II Committee, we find that the methodology adopted by RC-II is a scientific methodology in keeping with the developments in the field of Forest Cover Map. Besides that, we find that it involves physical verification as well. Therefore, in our estimation, the methodology adopted by RC-II is scientific one and the demarcation of the private forest area done/being done by it is found to be appropriate. Thus, we decide issue Nos.(iii) and (iv) accordingly.

Issue No. (iv) :

90. Looking to the fact that the procedure which is being adopted by RC-II is quite extensive and time consuming, which would require huge number of manpower as well, it is likely that the completion of the work would take some time. We expect that the Committee should complete its task within one year.

91. We are of the view that in order to take extreme precaution that no-one suffers on account of errors in identification of the private forest area, the areas, which were finally identified as private forest area by the T&A Committees, if any area out of that is required to be excluded as per review being made by RC-II, the said area should be got verified physically with respect to all three criteria laid down for determination of the private forest cited above by us. Till the final decision is taken with respect to whether the area being excluded from the list of being treated as final forest land by the RC-II which was finalized by T&A Committees

as private forest, in keeping with our direction, no permission shall be granted by the State Government for any kind of development work, in the said survey numbers. This exercise shall be completed within three months of uploading of this order.

92. With above directions, we dispose of this Misc. Application. No order as to costs.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

SEPTEMBER 12, 2023
M.A. NO.03 OF 2023 (WZ)
npj